

M.J. Baxter

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JAMES E. HOVEY, JR.,
R.R. 2, Box 1754
Clarendon, PA 16313,
Plaintiff,

v.

UNITED STATES DEPARTMENT OF
AGRICULTURE,
U.S. FOREST SERVICE
ALLEGHENY NATIONAL FOREST
222 Liberty Street
Warren, PA 16365,
Defendant.

1:07-CV-242

FILED

SEP 10 2007

CLERK OF DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA

**COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF**

Filed by Plaintiff:
James E. Hovey, Jr.
R.R. 2, Box 1754
Clarendon, PA 16313
(814) 726-1576

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FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JAMES E. HOVEY, JR.,
R.R. 2, Box 1754
Clarendon, PA 16313,
Plaintiff,

v.

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Defendant.

COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF

1. The Plaintiff is JAMES E. HOVEY, JR., an adult individual with residence at R.R. 2, Box 1754, Clarendon, Pennsylvania 16313.
2. This is an action under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, as amended, to secure the release of records set forth below.
3. This Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331, inasmuch as this action arises under FOIA.
4. The Plaintiff is a resident of Warren County, Pennsylvania, and an elected Supervisor of Mead Township (a township of the Second Class), also situate in Warren County. In those capacities the Plaintiff has become concerned that decisions made by the Allegheny National Forest (ANF) concerning closure and potential modification to all-terrain vehicle (ATV) trails upon the ANF, have been made upon an inappropriate factual basis and without the protection of proper procedure.

5. As a consequence of the Plaintiff's concerns, the Plaintiff submitted an FOIA request on June 3, 2007, to Kathleen Morse, Supervisor of the Allegheny National Forest by certified mail sent to 222 Liberty Street, Warren, Pennsylvania 16365. A copy of said FOIA request is attached hereto as Exhibit A.

6. Said certified mailing was received by the Defendant on June 6, 2007.

7. On July 24, 2007, Plaintiff received a telephone call from Regional Forest Coordinator Michelle Gumanto in Milwaukee, Wisconsin. Ms. Gumanto informed Plaintiff that responses were being assembled to Plaintiff's FOIA request and that said responses would be mailed shortly. No extension of time, for response, was requested by the Defendant.

8. The Defendant, Allegheny National Forest, USDA, is an agency with the Federal Government of the United States, and has possession of and control over the records the Plaintiff seeks.

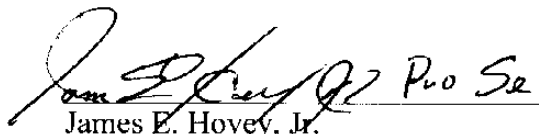
9. More than twenty (20) working days have passed since the Defendant received Plaintiff's June 3, 2007, request. Despite Defendant's receipt of that request and the acknowledgment by Forest Coordinator Michelle Gumanto that a response was being prepared, the Plaintiff has not received a response or determination from the Defendant concerning the Plaintiff's request, nor has the Defendant produced any materials in response to the Plaintiff's request.

10. The Plaintiff has a statutory right to disclosure of the items requested in his June 3, 2007, request, and there is no legal basis for the failure of the Defendant to respond to the Plaintiff's request in a timely manner.

WHEREFORE, the Plaintiff prays that this Court:

1. Declare that Defendant's failure to disclose the records requested by Plaintiff is unlawful;
2. Order the Defendant to make the requested records available to Plaintiff;
3. Award Plaintiff its costs and reasonable attorney's fees in this action in the event that Plaintiff finds it necessary to secure counsel for representation; and
4. Grant such other Order and further relief as the Court may deem just and proper.

Respectfully submitted,



James E. Hovey, Jr.
R.R. 2, Box 1754
Clarendon, PA 16313
(814) 726-1576

Appearing Pro Se

Date: September 10, 2007

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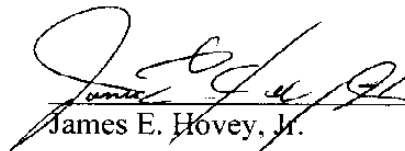
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COUNTY OF WARREN

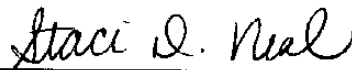
ss.

ON THIS, the 10th day of September, 2007, before me, the undersigned officer,
personally appeared JAMES E. HOVEY, JR., who being duly sworn according to law, deposes
and says that the facts contained herein are true and correct to the best of his information,
knowledge, and belief, all subject to the penalties of 18 Pa.C.S.A., Section 4904, relating to
unsworn falsification to authorities.


James E. Hovey, Jr.

Sworn to and subscribed before me

this 10th day of September, 2007.



Notary Public

